

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, }
Plaintiff, } No. ED-CR-12-080-JLQ
vs. } ORDER RE: FEBRUARY 14, 2013
LINDA MARIE PHILLIPS, } PRETRIAL CONFERENCE
Defendant. }

The parties have filed a Stipulated Second Motion For Continuance of Trial Date (ECF No. 15) requesting that the trial date be continued to July 16, 2013, and that the motions and pretrial conference settings be adjusted accordingly.

Trial in this matter was originally set for January 28, 2013. The Indictment was filed on October 31, 2012, and charges that the Defendant knowingly embezzled or stole Social Security disability payments totaling less than \$2,000. After granting in part the parties' First Motion to Continue, trial in this matter is set for March 12, 2013.

The Second Motion to Continue states that Defendant had surgery on December 14, 2012 and is expected to be bedridden for three to four months. The Second Motion to Continue was filed without any supporting medical documentation, and accordingly the court directed Defendant to file supporting medical documentation by January 30, 2013, substantiating the claim that Defendant would be bedridden for three to four months and would be unable to consult with counsel during that time.

On January 25, 2013, Defendant filed a supplemental submission. (ECF No. 17). This submission consists of a two-page declaration of counsel, a photo of Defendant,

1 eight pages of medical records, and three pages which were merely photo-copies of
2 physician business/appointment reminder cards. Of the eight pages of medical records
3 submitted, three pages were from office visits which pre-dated Defendant's December
4 2012 surgery. (ECF No. 17, p. 14-16). The court sees nothing in the records submitted
5 (some portions were illegible) which stated that Defendant needs to remain on bed rest
6 for three to four months.

7 The affidavit of defense counsel states that she learned from Defendant's daughter,
8 that Defendant needed three to four months to recover from surgery. (ECF No. 17, p. 3
9 at ¶ 2). Although claiming to be on bed rest, the supplemental submission indicates that
10 Defendant attended an office appointment on January 9, 2013, met with her attorney at
11 home on January 18, 2013, and planned on attending another physician appointment on
12 January 29, 2013. Despite having this office appointment on January 29, 2013, which
13 provided an opportunity for Defendant to obtain documentation to specifically respond
14 to the court's concerns, records from the January 29, 2013 visit were not submitted.

15 The supplemental submission (ECF No. 17) does not satisfy the court that a
16 continuance of the trial date from March, 2013 to July 2013 is necessary or appropriate.

17 **IT IS HEREBY ORDERED:**

18 1. This matter remains set for Pretrial Conference on **February 14, 2013 at 9:30**
19 a.m. at which time the court will hear from counsel on this Second Motion to Continue.

20 2. Defense counsel shall be prepared to address Defendant's medical condition.
21 Defendant shall provide a legible letter from one of her physicians addressing the nature
22 and extent of the December surgery, the recovery time and activities allowed during that
23 time, and the Defendant's ability to be present at the two to three day jury trial continued
24 by the court to commence on March 12, 2013.

25 3. The pretrial motions filing deadline is **RESET to February 20, 2013**. Any
26 response to any pretrial motion shall be filed no later than **February 28, 2013**. The
27 deadline for filing of requested jury instructions, requested jury voir dire, and trial briefs

1 is RESET to March 1, 2013.

2 4. Jury trial in this matter remains set for **March 12, 2013 at 9:00 a.m.**

3 **IT IS SO ORDERED.** The Clerk shall enter this Order and furnish copies to
4 counsel.

5 Dated this 5th day of February, 2013.

s/ Justin L. Quackenbush
JUSTIN L. QUACKENBUSH
SENIOR UNITED STATES DISTRICT JUDGE